

Message Text

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ORIGIN ACDA-12

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/109 R

DRAFTED BY ACDA/NP:CVANDOREN
APPROVED BY ACDA/NP:CVANDOREN
L:RBETTAUER (PARA 3)
NEA:ATHIBAULT
T:JNYE
OES:DCOOPER
-

-----025678 052342Z /12
O 052319Z JUL 78
FM SECSTATE WASHDC
TO AMCONSUL BOMBAY IMMEDIATE
INFO AMEMBASSY NEW DELHI IMMEDIATE

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E.O. 11652: N/A

TAGS: MNUC, TECH, IN

SUBJECT: NUCLEAR MATTERS

REF: BOMBAY 1592

1. YOU MAY ADVISE SETHNA THAT 60 DAY WAITING PERIOD FOR CONGRESS TO ACT ON URANIUM EXPORT EXECUTIVE ORDER WILL EXPIRE JULY 15; ARRANGEMENTS BEING MADE TO PERMIT PROMPT SHIPMENT UPON EXPIRATION THAT PERIOD.

2. IN YOUR DISCUSSIONS ON FOLLOW-ON, YOU MAY MAKE AVAIL-
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ABLE TO HIM THE NON-PAPER SET FORTH IN PARA 3 BELOW, WHICH SEEKS TO CLARIFY QUESTIONS AS TO SCOPE OF THE NEW LEGISLATION. YOU MAY ALSO WISH TO MAKE AVAILABLE EXTRACT FROM TEXT OF LETTER SENT BY CHAIRMAN OF SENATE COMMITTEE ON FOREIGN RELATIONS TO PRESIDENT, SET FORTH IN PARA 4 BELOW. IN THIS CONNECTION, YOU MIGHT ASK FOR HIS PERSONAL VIEW ON HOW PROGRESS MIGHT BE MADE IN RESOLVING THE HEAVY

WATER ISSUE RAISED IN THE SECOND TICK OF THAT LETTER.
FINALLY, YOU SHOULD ASK WHETHER HE HAS SPECIFIC QUESTIONS
WE MIGHT HELP ANSWER WITH RESPECT TO PRACTICAL REQUIREMENTS
OF FULL SCOPE SAFEGUARDS COVERAGE.

3. CLARIFICATION OF GENERAL PLAN OF SUBSTANTIVE PROVISIONS
OF NEW US LAW

1. PROVISIONS RELATING TO EXPORTS UNDER EXISTING AGREE-
MENTS:

SEC. 305 (ADDING NEW SEC. 127 TO ATOMIC ENERGY ACT)
APPLICABLE TO ALL LICENSES FOR EXPORT OF SOURCE AND SPECIAL
NUCLEAR MATERIAL AND FACILITIES FOR PEACEFUL PURPOSES.

SEC. 306 (ADDING NEW SEC. 128 TO ATOMIC ENERGY ACT)
APPLICABLE TO LICENSES AFTER SEPTEMBER 10, 1979, AND ANY
LICENSE UNDER WHICH FIRST SHIPMENTS WOULD TAKE PLACE AFTER
MARCH 10, 1980).

SEC. 307 (ADDING NEW SEC. 129 TO ATOMIC ENERGY ACT),
SPECIFYING BEHAVIOR THAT WOULD RESULT IN TERMINATION OF
SUPPLY.

SEC. 303 (ADDING NEW SEC. 131 TO ATOMIC ENERGY ACT),
RELATING TO "SUBSEQUENT ARRANGEMENTS" UNDER AGREEMENTS FOR
COOPERATION.
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II. CRITERIA FOR NEW OR AMENDED AGREEMENTS FOR COOPERATION
(WHICH ARE ALSO THE US GOALS FOR THE RENEGOTIATION OF
EXISTING AGREEMENTS DESCRIBED IN III BELOW):

SEC 401 (AMENDING SEC. 123 OF ATOMIC ENERGY ACT).

SEC. 402 (DEALING WITH ENRICHMENT AFTER EXPORT OF US ORIGIN
MATERIALS, AND EXPORT BY US OF MAJOR CRITICAL COMPONENTS
OF SENSITIVE FACILITIES).

III. INSTRUCTION TO SEEK TO RENEGOTIATE EXISTING AGREEMENTS
FOR COOPERATION:

SEC 404 (NOTE THAT THE LAW DOES NOT SET ANY DEADLINE FOR
COMPLETION OF SUCH RENEGOTIATION, OR SPECIFY ANY LEGAL
CONSEQUENCES FOR FAILURE TO DO SO. IN FACT, SECTION 405
SPECIFICALLY PROVIDES THAT "THE AMENDMENTS TO SECTION 123
... MADE BY THIS ACT SHALL NOT AFFECT THE AUTHORITY TO
CONTINUE COOPERATION PURSUANT TO AGREEMENTS FOR COOPERATION
ENTERED INTO PRIOR TO THE DATE OF ENACTMENT OF THIS ACT.")

IV. INSTRUCTIONS TO SEEK GENERAL INTERNATIONAL AGREEMENT
ON CERTAIN NUCLEAR POLICIES:

SEC 403 (NOTE THAT THIS IS NOT PART OF THE BILATERAL
RENEGOTIATION EFFORT CALLED FOR IN SEC. 404. AGAIN,
THERE IS NO DEADLINE SET FOR COMPLETING THESE NEGOTIATIONS
AND NO LEGAL CONSEQUENCES SPECIFIED FOR FAILING TO DO SO.
THIS SECTION DOES NOT HAVE THE LEGAL EFFECT OF ENLARGING
THE STATUTORY REQUIREMENTS FOR EXPORTS UNDER EXISTING
AGREEMENTS OR THE CRITERIA FOR NEW OR AMENDED AGREEMENTS.
SUCH ENLARGEMENT COULD ONLY BE EFFECTED BY NEW LEGISLATION,
WHICH IS UNLIKELY IN THE ABSENCE OF BROAD INTERNATIONAL
AGREEMENT ON THESE MATTERS.)

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V. INSTRUCTION TO SEEK INTERNATIONAL AGREEMENT ON AN
INTERNATIONAL NUCLEAR FUEL AUTHORITY (THAT COULD PROVIDE
ASSURANCES ON FUEL SUPPLY BEYOND THOSE PROVIDED BY
BILATERAL ARRANGEMENTS):

SEC 104 (NOTE THAT THESE NEGOTIATIONS WOULD NOT AFFECT
EITHER EXISTING OR NEW BILATERAL FUEL SUPPLY ARRANGEMENTS).

4. EXTRACT FROM LETTER TO PRESIDENT FROM CHAIRMAN
SPARKMAN, JUNE 21, 1976:

THE COMMITTEE DISCUSSED THE PROPOSED EXPORT ON JUNE 20.
UPON THE MOTION OF SENATOR GLENN, THE COMMITTEE REQUESTED
THAT I WRITE TO YOU TO COMMUNICATE THE FOLLOWING VIEWS OF
THE COMMITTEE:

-- SUBSTANTIAL PROGRESS AT AN EARLY DATE TOWARD PLACING
ALL PEACEFUL NUCLEAR ACTIVITIES IN INDIA UNDER INTERNATIONAL
SAFEGUARDS IS OF CRITICAL IMPORTANCE. THE EXECUTIVE
BRANCH SHOULD MAKE A VIGOROUS EFFORT TO SECURE INDIAN
AGREEMENT TO FULL-SCOPE SAFEGUARDS WITHIN 18 MONTHS OF THE
ENACTMENT OF THE NUCLEAR NON-PROLIFERATION ACT OF 1978.
THE EXECUTIVE BRANCH AND THE INDIAN GOVERNMENT SHOULD BASE
THEIR DISCUSSIONS ON THE ANTICIPATION THAT, IF FULL-SCOPE
SAFEGUARDS ARE NOT ACHIEVED, IT IS HIGHLY UNLIKELY THAT A
WAIVER ALLOWING CONTINUED EXPORTS WOULD BE ACCEPTABLE.

-- THE PRESIDENT SHOULD MAKE EVERY EFFORT TO OBTAIN FROM
THE GOVERNMENT OF INDIA AGREEMENT TO THE TRANSFER OF AN
AMOUNT OF HEAVY WATER TO THE INVENTORY OF A SAFEGUARDED
FACILITY EQUAL TO ALL PREVIOUS TRANSFERS OF HEAVY WATER
FROM THE UNITED STATES TO INDIA. IN ADDITION, THE UNITED
STATES AND INDIA SHOULD SEEK TO ENSURE THAT ANY ADDITIONAL
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HEAVY WATER SHIPMENTS WILL RESULT DIRECTLY IN INCREASING SAFEGUARDS COVERAGE.

-- THE UNITED STATES SHOULD ALSO ACTIVELY SEEK AN ARRANGEMENT WITH INDIA ENSURING THAT NO SPENT FUEL OF UNITED STATES ORIGIN COULD BE USED AT ANY TIME FOR EXPLOSIVE PURPOSES. SUCH AGREEMENT MIGHT PROVIDE FOR THE UNITED STATES TO EXERCISE ITS RIGHT TO REPURCHASE SPENT FUEL SHOULD IT DESIRE TO DO SO OR TO MAINTAIN VETO RIGHTS AS TO THE FUTURE DISPOSITION OF THE FUEL. IT MAY NOT BE NECESSARY FOR THE UNITED STATES TO HAVE PHYSICAL CONTROL OF THE FUEL SO LONG AS THE FUEL WILL BE ASSUREDLY UNDER INTERNATIONAL SAFEGUARDS AND WILL NOT BE HANDLED IN A MANNER UNACCEPTABLE TO THE UNITED STATES.

-- INDIA AND OTHER NATIONS HAVE LINKED THEIR ACCEPTANCE OF STRONG NON-PROLIFERATION CONTROLS TO SUCCESS IN ACHIEVING A COMPREHENSIVE TEST BAN AND AGREEMENT ON NUCLEAR ARMS REDUCTION. WHILE SUCCESS IN OTHER ARMS CONTROL ENDEAVORS CANNOT BE A PRECONDITION FOR MUTUAL AGREEMENT ON NUCLEAR SAFEGUARDS, THE ADMINISTRATION SHOULD APPRECIATE THE CONCERNS OF SUCH NATIONS AS INDIA AND SHOULD STRIVE VIGOROUSLY TO ACHIEVE FURTHER ARMS CONTROL MEASURES.

-- THE COMMITTEE INTENDS TO FOLLOW CLOSELY THE NEGOTIATING PROCESS AND NUCLEAR SUPPLY ARRANGEMENTS WITH INDIA DURING THE PERIOD BEFORE FULL-SCOPE SAFEGUARDS ARE SPECIFIED IN THE NON-PROLIFERATION ACT. VANCE

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